



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,010	04/11/2001	Richard A. Smith	20-464	9656
7590 12/23/2008 MANELLI DENISON & SELTER PLLC 7th Floor 2000 M Street, N.W. Washington, DC 20036-3307				
EXAMINER				
TRAN, PABLO N				
ART UNIT		PAPER NUMBER		
2618				
MAIL DATE		DELIVERY MODE		
12/23/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/832,010

**Applicant(s)**

SMITH ET AL.

**Examiner**

Pablo N. Tran

**Art Unit**

2618

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 2, 3, 7-16, 18, 19, 24 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4-6, 17, 20-23, and 26-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-884)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4-5, 17, 20-21, 23, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaPorta et al. (hereinafter "LaPorta", US Pat. No. 5,959,543) in view of Frohman et al. (hereinafter "Frohman", US Pat. No. 5,418,835) and further in view of Holmes et al. (hereinafter "Holmes", US Pat. No. 6,134,432).

As per claims 1, 17, and 23, LaPorta disclosed a message distribution center (see fig. 5/no. 114, 116, 118), wherein the message distribution center utilized such messaging protocols communication channel to receive the short message, a plurality of subscriber queues (see fig. 5/no. 100, fig. 10) accessed before delivery to a wireless carrier's subscriber message delivery network and each corresponding to a different subscriber (see col. 13/ln. 5-10) in said wireless network, the short message being placed in at least one of the plurality of subscriber queues before delivery to the wireless carrier's subscriber message delivery network, and a communication channel to communicate said short message to said wireless carrier's network (see col. 12/ln. 5-46, where it is clear that the message is retrieved prior to delivery).

LaPorta does not specifically disclose an assignment module to individually assign a maximum number of messages for each queue. Frohman disclosed such method (see col. 2/ln. 18-25, where it is clear that each queue capacity is control base upon the individual user paying for the level of services). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention for LaPorta to utilize such teaching of Frohman in order to reduce messages transmission delaying period.

LaPorta in view of Frohman disclose utilization of such messaging communication protocols but not explicitly SMTP or SMPP protocol. However, Holmes teaches such messaging communication system utilized SMTP and SMPP protocols (see col. 2/ln. 65-col. 3/ln. 26). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention the modified communication system of LaPorta and Frohman to utilized the SMTP and/or SMPP protocols, as taught by Holmes, in order to permits a user to be notified of an event by having an alert engine module receive a message alert for an event in a generic communications format, such as over SMTP, and transforming the alert into a communications format that is preferred by a user at a target address such as based on alert content.

As per claims 4, 20, and 26, the modified communication system of LaPorta, Frohman, and Holmes further disclosed FIFO message queues (see Frohman, col. 2/ln. 68).

As per claims 5, 21, and 27, the modified communication system of LaPorta, Frohman, and Holmes further disclosed a predetermined maximum number of short messages in each queues (see Frohman, col. 2/ln. 18-25).

3. Claims 6, 22, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified communication system of LaPorta, Frohman, and Holmes, and further in view of Sladek et al. (hereinafter "Sladek", US Pat. No. 6,718,178).

As per claims 6, 22, and 28, the modified communication system of LaPorta, Frohman, and Holmes does not specific suggest such utilization of a Wireless Intelligent Network (WIN). However, Sladek taught such utilization (col. 4/ln. 20-28). Therefore, it would have been obvious to one of ordinary skill in the art to provide such intelligent network, as taught by Sladek et al., to the modified communication system of LaPorta, Frohman, and Holmes, in order to assist one or more serving systems in handling calls and employs a unique message set and provides additional capabilities in order to facilitate mobility management and other functions that are uniquely associated with providing service for mobile subscribers.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Tran whose telephone number is (571)272-7898. The examiner normal hours are 9:30 -5:00 (Monday-Friday). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571)272-7899. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) System. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-directauspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 21, 2008

/Pablo N Tran/

Primary Examiner, Art Unit 2618